

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BENNIE BARNES,)
Petitioner,) Case No. 1:13-cv-68-SJM-SPB
v.)
SUPERINTENDENT MICHAEL)
HARLOW, *et al.*,)
Respondents.)

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was received by the Clerk of Court on March 8, 2013 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Report and Recommendation, filed on March 15, 2013 [2], recommends that the instant habeas petition be summarily dismissed for lack of jurisdiction and that a certificate of appealability be denied. Petitioner was allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI-Albion, where he is incarcerated; however, no objections to the Report and Recommendation have been filed to date.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 4th Day of April, 2013;

IT IS ORDERED that the instant petition for writ of habeas corpus shall be, and hereby is, DISMISSED for lack of jurisdiction. Inasmuch as reasonable jurists would not find it debatable whether the instant petition is a second or successive petition as to which jurisdiction is lacking, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on March 15, 2013 [2], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter